This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 02 WELLINGTON 000461

SIPDIS

STATE FOR EB/CIP FOR AHYDE AND EAP/ANP FOR TRAMSEY
STATE PASS TO USTR FOR BWEISEL AND DKATZ
COMMERCE FOR 4530/ITA/MAC/AP/OSAO/ARI BENAISSA
COMMERCE FOR 6920/ITA/OTEC/MYLES DENNY-BROWN

E.O. 12356: N/A
TAGS: ECPS ECON ETRD NZ
SUBJECT: NEW ZEALAND MOVES CLOSER TO CUTTING MOBILE TERMINATION RATES

¶1. Summary: New Zealand's two mobile-phone service providers are a step closer to being ordered to lower the fees they charge to complete calls into the country on their networks -- fees that are among the highest of OECD nations. The Commerce Commission on June 9 issued its final report on its investigation into mobile termination rates, recommending to the Minister of Communications that the rates be regulated and, as a result, lowered. The commission found that a lack of competition in the market had resulted in the two mobile network operators setting rates significantly above the level required to cover costs. The Minister of Communications, who must make the final decision, is likely to follow the commission's recommendation. End summary.

¶2. Ending an investigation that began in May 2004, the Commerce Commission -- New Zealand's anti-monopoly watchdog -- upheld its October 18 preliminary decision to regulate mobile termination rates, the fees that fixed-line network operators incur when calls are completed on mobile telephone networks.

¶3. The decision is good news for U.S. callers to New Zealand, since AT&T and other U.S. companies have faced increasing fees when they pass calls into the country. The commission estimated the cost of mobile termination to be about NZ 15 cents (US 10.7 cents) per minute, while the New Zealand mobile network operators have been charging about NZ 27 cents (US 19 cents) per minute. The fee they charge overseas carriers has been almost US 6 cents higher than that.

¶4. The commission determined that regulated reduction in the rates would probably increase competition in the domestic fixed-to-mobile market, resulting in lower retail prices for fixed-to-mobile calls. Although it acknowledged that regulation also could put "upward pressure" on the price of other mobile phone services, as service providers sought to recoup revenue in other areas, the commission predicted overall benefits to consumers and businesses. It noted that New Zealand is one of the most expensive countries in the OECD for users of mobile phones.

¶5. The recommendation for regulation excluded voice calls using third-generation mobile networks because of concern that such regulation might inhibit investment in the new technology.

¶6. Vodafone serves about 55 percent of the mobile phone market in New Zealand, while Telecom -- the country's largest fixed-line phone company -- holds the balance. Vodafone immediately criticized the commission's recommendation, saying that the cost of other types of calls and handsets could rise to offset the revenue lost if it were forced to cut termination fees. Vodafone's finance director, David Sullivan, said that regulation would benefit the fixed-line providers, Telecom and TelstraClear, which would stand to make some savings as they pay less to Vodafone for terminating calls on its network.

¶7. Telecom did not immediately respond to the decision, but has previously contended that the mobile market did not need regulation. While it also could lose revenue from regulation, Telecom potentially could offset such losses by passing on the savings from lower charges to customers, thereby inducing consumers to make more calls. TelstraClear, which resells Vodafone's mobile phone services but is developing its own mobile network, supports regulation. There are 2.8 million mobile phones and 1.7 million fixed lines in New Zealand.

¶8. The Minister of Communications, David Cunliffe, can accept the commission's recommendation, reject it or ask the commission to reconsider its recommendation. If he accepts the recommendation, the commission then would set the mobile termination rates, most likely based on benchmarking against other OECD countries.

¶9. A copy of the commission's 177-page decision can be found on its website, www.comcom.govt.nz (select

"Telecommunications" and then "Investigations").

¶10. Comment: Minister Cunliffe is likely to accept the commission's recommendation. In general, ministers need extraordinary reasons to reject the regulator's recommendations. For example, then Minister of Communications Swain in May 2004 accepted the Commerce Commission's recommendation against local loop unbundling, even though he personally opposed it. Moreover, Cunliffe would be well aware of concern among telephone users over oligopolistic practices and pricing by Vodafone and Telecom, which have tended to set mobile termination fees in tandem.

SWINDELLS